



Delaware Nutrient Management



The Delaware Nutrient Management Commission Minutes of the Full Commission Meeting Held April 10, 2007

In attendance:

<i>Commission Members Present</i>	<i>Others Present</i>		
B. Vanderwende – Chair	D. Absher	B. Esham	S. Kepfer
M. Adkins	B. Angstadt	J. Evans	Ch. Larimore
R. Baldwin	M. Brown	T. Ferguson	M. Larimore
K. Blessing	K. Bunting-Howarth	K. Foskey	V. Lynch
T. Keen	B. Clark, II	T. Garrahan	B. Rickards
C. Larimore	B. Coleman	M. Givens	C. Rickards
J. Manchester	T. Crenshaw	R. Graeber	P. Sample
C. Solberg	P. Diehl	S. Hollenbeck	L. Stabley
C. West	K. Donnelly	T. Keen	R. Underwood
<i>Commission Members Absent</i>	<i>Ex-officios Present</i>		
D. Baker	W. Rohrer	G. Llewellyn	
A. Johnson	M. Cooke		
B. O'Neill	J. Hughes		
R. Sterling			

This meeting was properly notified and posted as required by law.

Call to Order/Welcome:

Chairman B. Vanderwende called the meeting to order at 7:00 p.m. and welcomed everyone in attendance.

Approval of Minutes:

C. Larimore motioned to adopt the minutes of the March 13 and March 22, 2007 Full Commission meetings.

C. West seconded the motion, which passed unanimously.

Discussion and Action Items:

Review and act on DDA Fertilizer Sales Report (T. Crenshaw)

B. Vanderwende introduced Teresa Crenshaw, of Delaware Department of Agriculture, who gave a 30 minute presentation on fertilizer sales in the State of Delaware. She distributed handouts which outline collected data (See handout attached to minutes).

Review and act on Bio Solid Report (R. Graeber, R. Underwood – DNREC)

B. Vanderwende introduced Ron Graeber and Rob Underwood of DNREC, who gave a 15 minute report on bio solids. Handouts were distributed which outlined collected data. (See handout attached to minutes). They also

mentioned that DNREC and the DDA are in the process of establishing reciprocity for overlapping certification programs.

Review and act on EPA Inspections

B. Rohrer gave a timeline and brief summary of recent EPA inspections:

March 14 ~ farm in Roxana was inspected (unannounced)

March 15 ~ farm in Argo's Corner was inspected (unannounced)

April 5 ~ farm in Greenwood was inspected

April 5 ~ farm in Seaford was inspected

April 11 ~ farm in Seaford was inspected

April 11 ~ farm in Seaford Road was inspected; four adjoining farms were also inspected

B. Rohrer explained that the meeting with EPA on March 30 generated some results:

- The EPA agreed to 48 hours notice prior to any inspections,
- They agreed to a status report within 30 days of the date of the inspection,
- They provided us with a copy of their inspection criterion.

Typically, these inspections focus on permitted facilities. It seems that several factors contribute to the decision to inspect the Delaware farms, such as: aerial photos, and other reconnaissance (like drive-by inspections). Four of the six of those farms inspected had recently experienced total cleanouts. B. Rohrer suggested that DNMP staff visit the farms to address BMPs and other practices in an attempt to resolve expected issues from the EPA inspections. A general discussion of the events followed:

"Why Delaware?" J. Hughes responded that EPA explained to him that they "have tickets to punch," and that they were duty-bound to do inspections of equal density in other states; it just so happens that they started in Delaware.

"Why poultry farms? Why not the whole program?" J. Hughes said the focus of the EPA is on CAFOs and animal operations, and they have gradually increased their scrutiny.

He also stated that DNMC should go over EPA checklist with a fine-tooth comb, because they are looking for things that we do not currently check for.

C. Larimore suggested contacting congressmen to request the limits of inspection protocol. She stated that a 7 hour inspection with soil and water sampling is going too far. C. West asked if double samples were taken – for the farmer. B. Rohrer answered, yes, split samples were taken. B. Vanderwende pointed out that the inspections occurred a day after a moderate rain, which meant there was probably standing water. C. West asked if a farmer is found to have a discharge, is he fined or permitted. J. Hughes stated that there was no indication at the EPA meeting. T. Keen said that the report from March 14 is due in three days. B. Rohrer pointed out that a status report is due within 30 days, EPA said it was unreasonable to expect full report in 30 days. K. Donnelly added that analytical results from DDA, DNREC and U of D are obtained fairly quickly. J. Hughes stated that the Commission should help people with egregious errors. J. Manchester asked if some things (found during inspections) were not meeting state standards. B. Rohrer responded, yes, and they are already being addressed. S. Kepfer asked that DNMC keep NRCS informed so that they can address any issues in their nutrient management plans. C. West offered that he feels EPA is trying to find a discharge so they can permit everyone in the state. J. Hughes stated that they have a national animal feeding operations initiative which includes inspection and analysis. T. Keen asked if they have an AFO checklist. K. Donnelly answered, no, because they don't regulate AFOs. T. Keen asked if they found a discharge, and the farmer needs a permit, would DNREC issue it? K. Donnelly answered that an individual, general permit would come from DNREC, otherwise a Notice of Intent would come from DNMC. B. Rohrer explained permitted operations. T. Keen asked if a farmer is found to have a discharge, completes permitting process, then cleans it up, is he still a CAFO? K. Donnelly responded, if he cleans it up, no, according to the 2nd Circuit Court. He further stated, if manure is applied according to nutrient management plan and runoff occurs, there is no discharge. If there is a rain event and there is runoff from a manure pile in the production area which flows to disreect conveyance (such as pipe to tax ditch), there would be a discharge. S. Kepfer asked, how many days after rainfall. If the rainfall was greater than a 25-year storm event, a discharge does not count. J. Hughes commented that he strongly suggests that the DNMC place their issues and concerns before EPA and ask for dialogue. EPA finds Delaware a convenient state. C. Larimore offered that Delaware has been very proactive. We're learning as we go. We work with the farmers where the EPA comes in strong-arming and fining people, and it's not going to work. J. Hughes commented that the EPA are not stupid or irrational people; they are working within their laws. J. Manchester asked if we have a list of questions for them. T. Keen responded that we will have to schedule a Technology meeting. He also thanked J. Hughes for his assistance and being on the side of the Commission. C. Solberg asked what relevance the data collected from soil

samples has. J. Hughes answered that increased scrutiny will correct egregious problems. He added, the Commission can't yet be held accountable for every farmer in the State.

Review and act on Poultry Company Agreement

B. Rohrer explained that poultry companies are being asked to contribute to relocation funding if they have no alternative use project in place. There is a draft agreement outlining the general consensus of funding: DDA, DNREC, NRCS, and the poultry companies. Poultry companies must also submit an annual report to the DNMC. DNMC is asking that poultry companies provide 50% of relocation monies used for their growers, not to exceed \$100,000 per company. DNMC is meeting with poultry companies within the next month – and hope for a signing ceremony some time in May. C. Solberg stated that he feels the DNMC is on target with this initiative. J. Manchester requested that the DNMC has an opportunity to review the final agreement before signature. C. Solberg asked if the Cabinet Secretaries from representative agencies would be signatories. B. Rohrer responded, yes, it would be Cabinet Secretaries.

B. Rohrer noted that April 1 – April 30 is public comment period to approve final regulation amendments, and that there would be no public hearing. J. Manchester asked what actions have been taken to fill Commission vacancies. B. Vanderwende responded that there has been no action to replace New Castle County representative, but the Commission is working on a replacement for E. Lewandowski resignation.

Subcommittee Reports:

J. Manchester gave an overview of topics he would like to see covered in the next Technology Meeting.

Administrator's Report: *Refer to the attached Administrator's Report*

B. Rohrer explained the Administrator's Report.

Public Comments: K. Donnelly stated that the inspection report deadline was discussed in correspondence from the EPA. They ask for comment – we should write what we want and send it to them.

B. Angstadt stated that Maryland estimates that fertilizer tonnage numbers are skewed 10-20%, and that nitrogen results look high. T. Keen asked that B. Rohrer try to have T. Sims at next Technology Meeting for discussion.

Next Meeting: Tuesday, May 8, 2007 at 7:00 p.m.

Adjournment: Chairman Vanderwende adjourned the meeting at 9:17 p.m.

Approved,

William Vanderwende, Chair
Delaware Nutrient Management Commission

BRR/psd